

NORTH EAST BOARD OF APPEALS
North East Town Hall / 106 South Main Street
Thursday, July 27, 2023

Chairman Maurice Tenney called the meeting to order at 7:00 P.M. Present for the meeting included members Martha Kline and S.J. Anderson via zoom. Also in attendance were Betsy Vennell, Director of Planning and David Beste, Town Attorney. Melissa Cook-Mackenzie, Zoning Administrator and Lisa Rhoades, Planning and Zoning Assistant were absent from the meeting.

-MINUTES-

April 27, 2023

The minutes were not reviewed during this evening's meeting.

-PUBLIC HEARING-

Chairman Tenney opened the public hearing at 7:00 p.m.

Mrs. Vennell read the case into the record.

CASE: A-2023-04-V: Applicant A. Duie Pyle Inc., 650 Westtown Road, West Chester PA 19381, has requested Stream Buffer Variances from provisions of The North East Zoning Ordinance. Article 13. Sensitive Area Requirements; Section 13-1 for the purpose of constructing a cross dock facility. Subject property: North East Commerce Center, Lot 3 and Lot 4. Property Owner: Northeast Commerce Center IV LLC, c/o MIE Properties Incorporated, 2560 Lord Baltimore Drive, Baltimore, Maryland. Also Found on Tax Map 25B; Parcel 42; Lots 3 & 4. Zoning District "HI" Heavy Industrial and "HCOD" Highway Corridor Overlay District. Variance requests:

- 1) Permanent Impacts: Variance between 35 and 100 feet from the 100 foot Intermittent Stream Buffer: 6,534+/- square feet of pavement around the maintenance building and the retaining walls; and 10,890+/- square feet for access to the site.
- 2) Temporary Impacts: Variance between 35 and 100 feet from the 100 foot Intermittent Stream Buffer: 115,870+/- square feet for grading, erosion sediment controls, Stormwater Management Facilities and Outfalls, retaining wall construction; and 14,810+/- square feet for access to the site.

Attorney Beste read into the record the North East Zoning Ordinance, Article 9-9. Voting. Paragraph 1. The concurring vote of three members of the Board membership shall be necessary to reverse any Order, requirement, decision, or determination of the Zoning Administrator, Planning Commission or Town Administrator, as may be the case, or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance or to grant any variance.

The Court Reporter, Ann Lavoie, swore in all those who wished to speak during the hearing.

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Greg Seiford, Geist Corporation, Peter Latta, Chairman and CEO of A. Duie Pile, Inc. John Cannois and Tim Koch, Eco-Science Professional, science consultants for this project, Steve Fortunato and Jamie Ingusi of Bohler Engineering came to present the variance request.

Chairman Tenney inquired if any of the Board members would need to recuse themselves from voting on the variance. The Board members responded no.

Chairman Tenney inquired if the applicant would like the application to be part of the record. Mr. Seiford replied yes, and also requested to amend the application to request a one year extension be granted. Mr. Seiford explained that due to the size of this project he is not sure if they will be able to obtain all of the necessary approvals within a one year timeframe. Mr. Seiford also distributed a flyer known as Exhibit 1: A. Duie Pyle trucking company flyer from Canada on the east coast.

Mr. Latta gave a brief history of the A. Duie Pile Company. Mr. Latta reported this is a family owned business which is now moving into the 4th generation and due to the continuing growth of the company, it is time to expand the service centers. Mr. Latta reported that his business extends from Canada to North Carolina and Ohio to Kentucky. Mr. Latta explained the importance of this location for his business moving and how his trucking company operates as a pick-up and delivery service.

Mr. Seiford displayed the proposed site plan and commented that this is a challenging site. Mr. Seiford explained the elements of the layout of the project and stated that the site is an LTL Terminal (less than truck load terminal). There are 4 elements to the site: the office building, the maintenance facility, trailer parking and the car parking for employees. Mr. Seiford reported that they have attended Cecil County Technical Advisory Committee and have met with Cecil County Stormwater Management. In addition, they have received concept approval from the North East Planning Commission. Mr. Seiford stated that in accordance with the North East Zoning Ordinance Article 13, Sensitive Areas, they are requesting buffer variances. Mr. Seiford stated that they have attempted to develop the site so that the sensitive areas were not affected, however, they found that it was not possible. Therefore, the plan has been revised to minimally impact the buffers while still being functional.

Mr. Seiford referred to sheets C-1 and C-2 of the site plan and pointed out the temporary impact areas and permanent impact areas to the buffer.

Temporary Impacts:

1. Grading and Construction activities. The area would be restored to its natural state after the completion of the project. Mr. Seiford stated that of the 600,000 square feet of buffer area on the site only 20% will be impacted on a temporary basis. The site is unique as it has 3 interment streams, topography, steep grades and steep slopes.

Permanent Impacts:

1. The cul de sac over to the main buildable area on the lot which currently exists.

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2. The existing stream crossing and temporary road which connects to the buildable area on the west side of the property.
3. Three areas as defined on the site plan which will impact approximately 6500 square feet of area of 1% of the entire buffer area.

Mr. Seiford indicated they are exceeding the Cecil County Stormwater Management requirements by 31%.

Mr. Seiford went through the criteria for a variance request:

- 1) Variance is not contrary to the public interest: Mr. Seiford stated that they believe the way they are planning to development of the property will protect the watershed in addition to meeting and exceeding the required Stormwater codes.
- 2) Special Conditions that are unique to the site: Mr. Seiford stated that this is a unique site and stated this is most likely the reason why no one has requested to build on this site for many years. The presented site plan shows several different areas to use the site more strategically.
- 3) Denying a property owner rights, when enjoyed by others in the district: Mr. Seiford stated that lots 5 and 6 (within North East Commerce Center) have received approved variances prior to development and reported he believed that this sets a precedence for development on future lots.
- 4). Special conditions are not the result of the applicant: Mr. Seiford admitted it was a bit of a gray area, as some of impacts to the buffer were existing and some would be new. However, the variances being requested are as minimal as possible as the site has been pared down. Mr. Seiford wanted it to be noted that although the retaining walls are very expensive, they will be installing retaining walls which will help reduce the buffer impacts.
- 5) Granting of the variance will not confer any special privileges not commonly enjoyed by others: Mr. Seiford again stated that similar variances had been previously granted to lots 5 and 6.
- 6) The character of the district will or not be changed: Mr. Seiford stated that he believes that the proposed building and use is within the category as other businesses within the North East Commerce Center and zoning district.

Mr. Seiford stated they are not just seeking an approval, they are trying to demonstrate that they have done their best to minimize the buffer impacts. A. Duie Pyle has been in business a long time and their long term goal is to be present in North East long term.

Ms. Anderson reported that she researched the property and some information on Google prior to this meeting. Ms. Anderson inquired about the buffer setbacks and Mr. Fortunato clarified that the plan shows the Cecil County buffer setback which could be confusing. Ms. Anderson also inquired if there was only one access to the property and Mr. Seiford replied yes.

Chairman Tenney asked about the forestation. Mr. Fortunato stated that they have prepared a forest conservation plan. Mr. Seiford added that they will also be replanting trees and landscape. Mr. Tenney inquired about the emergency response plan in place and Mr. Seiford stated that they have 27 terminals and all of the terminals have

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materials onsite to contain spills. Mr. Koch added that the personnel onsite are trained to take care of any environmental spills.

Ms. Kline inquired about the proposed grading. Mr. Fortunato replied that due to the slope of the site, they will have to impact some of the buffers during the grading which is the reason for the variance request.

Mrs. Vennell stated that the Town is excited to see interest in this property given its challenges. Mrs. Vennell introduced Mr. Mink, the Town Engineer and stated that he is present for the purpose of answering any questions the Board of Appeals may have.

Chairman Tenney inquired if Mr. Mink had anything he would like to share about the site or project. Mr. Mink explained the Stormwater requirement of restoring a site to its original condition and the fact that the developer is proposing to meet and exceed the requirements is a huge benefit to the Town. This site has been sitting dormant for a long time and there has been significant erosion on the site, so to add some stormwater management will be a huge benefit.

Mr. Latta stated that he wanted to thank the Town, specifically Mr. Mink and Mrs. Vennell, for their assistance, guidance and collaboration between the A. Duie Pyle team and the Planning Office during this development process.

Mrs. Vennell stated that the Planning office did not receive any comments regarding the variance request. No members from the public spoke in opposition to the variance.

Chairman Tenney inquired if there were any final comments and Mr. Seiford replied no.

Ms. Anderson re-confirmed that the stream buffer variances would not be detrimental to the Towns water supply, in any way. Mr. Mink confirmed that the variances would not be detrimental to the Town.

Mr. Tenney closed the public hearing closed at 7:52 p.m.

Mr. Tenney asked the Board of Appeals members for a vote on approving the variance requests as presented and to grant a one year extension. The variance request and one year extension request were unanimously approved by all.

-OLD BUSINESS-

None.

-REPORTS-

None.

-MISCELLANEOUS-

None.

-NEXT MEETING-

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The next Board of Appeals is scheduled for August 24, 2023.

-ADJOURNMENT-

Ms. Kline made a motion to adjourn the meeting at 8:00 P.M. Ms. Anderson seconded the motion and the motion was approved by all.

Minutes transcribed by:

Attest:

Lisa Rhoades
Planning and Zoning Assistant

Maurice H. Tenney, Jr.
Chairman

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